

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**KIMBERLY F. MILLS, Individually and
as Independent Executrix of the Estate of
ARTHUR MARK MILLS, and on behalf
Of the Beneficiaries to the Estate to include
JEREMY M. MILLS, LEVI C. MILLS
and APRIL C. WEBB, Each Individually
and as Wrongful Death Beneficiaries of
ARTHUR MARK MILLS, DECEASED**

Plaintiffs

V.

**UNITED AIRLINES, INC.,
ABM AVIATION, INC.,
SIMPLICITY GROUND SERVICES,
LLC D/B/A SIMPLICITY USA,
ANTONIO DELEON, JESSICA MORA,
PRYSTAL MILTON, and
EXPRESSJET AIRLINES, INC.**

Defendants

CASE NO. 4:21-cv-1241

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(F) OF THE
FEDERAL RULES OF CIVIL PROCEDURE**

Plaintiffs Kimberly F. Mills, Individually As Heir at Law and As Independent Administrator of the Estate of Arthur Mills, Deceased, Jeremy M. Mills, Levi C. Mills and April C. Webb, each Individually as Heirs at Law (“Plaintiffs”), Defendants ABM Aviation, Inc., ExpressJet, LLC, United Airlines, Inc., Simplicity Ground Services, LLC, Jessica Mora, and Prystal Milton, and Antonio DeLeon hereby file the Joint Discovery Case Management Plan under Rule 26(f) of the Federal Rules of Civil Procedure.

1. State where and when the conference among the parties required by Rule 26(f) of the Federal Rules of Civil Procedure was held, and identify the counsel who attended for each party, including name, address, bar number, phone and fax numbers, and email addresses.

Answer: The parties held a teleconference on July 12, 2021. The attendees to the teleconference were:

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Jessica Mora, and Prystal Milton, and Antonio DeLeon

2. List the cases related to this one that are pending in any state or federal court with the case number and court, and state how they are related.

Answer: This matter was removed from state court Cause No. 2020-69428; *Kimberly F. Mills, et al. vs. United Airlines, Inc., et al.*; In the 157th Judicial District Court of Harris County, Texas.

3. Briefly describe what this case is about.

Answer: This is a personal injury and wrongful death case. Arthur Mark Mills was a quadriplegic. Defendants Mora and Milton, employees of Defendant ABM Aviation, Inc., dropped Mr. Mills while assisting him to his seat on a Defendant United Airlines and/or Defendant ExpressJet Airlines flight. Upon arrival at the Lubbock airport, Defendant DeLeon, another employee of Defendant ABM Aviation, dropped Mr. Mills a second time. This drop fractured Mr. Mills' lumbar spine. Mr. Mills never recovered from the injuries he sustained and he died four months later.

Plaintiffs allege that Defendants were negligent in transporting Plaintiff. Plaintiffs further allege that the acts and omissions of Defendants injured Arthur Mills and caused his death. Plaintiffs sued Defendants for negligence and gross negligence.

As set forth in Defendants Answers, Defendants deny any and all liability.

4. Specify the allegation of federal jurisdiction.

Answer: Plaintiffs contest federal jurisdiction and have timely filed a Motion to Remand. Plaintiffs contend Defendants' removal was not timely. Plaintiffs also contend that this Court is without subject matter jurisdiction because complete preemption does not apply to Plaintiffs' causes of action, Plaintiffs' Motion for Remand should be granted.

Defendants contend this Court has subject-matter jurisdiction based upon federal question as set forth in Defendants' Notice of Removal.

5. Name the parties who disagree with the plaintiff's jurisdictional allegations and state their reasons.

Answer: Defendants ABM Aviation, Inc., ExpressJet, LLC, United Airlines, Inc., Simplicity Ground Services, LLC, Jessica Mora, and Prystal Milton, and Antonio DeLeon. Defendants allege federal jurisdiction under 28 U.S.C. § 1331.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

Answer: Defendants' reserve the right to seek Leave of Motion to add Third-party Defendants Memorial Hermann Hospital TIRR, Plaintiff's treating physicians for negligence and Plaintiff's Insurance Carrier(s) (once identified) for bad faith and breach of contract causes of action.

7. List anticipated interventions.

Answer: None known.

8. Describe class-action issues.

Answer: None.

9. State whether or each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

Answer: All parties will serve and exchange Rule 26(a) initial disclosures by July 26, 2021.

10. Describe the proposed agreed discovery plan, including:

- a. responses to all the matters raised in Rule 26(f), including any agreements (and disputes) concerning electronic discovery;
- b. when and to whom the plaintiff anticipates it may send interrogatories;
- c. when and to whom the defendant anticipates it may send interrogatories;
- d. of whom and by when the plaintiff anticipates taking oral depositions;
- e. of whom and by when the defendant anticipates taking oral depositions;
- f. (i) the date experts for plaintiff (or party with the burden of proof on an issue) will be designated and their reports provided to opposing party;

- (ii) the date experts for defendant will be designated and their reports provided to opposing party;
- g. list of expert depositions the plaintiff (or party with the burden of proof on an issue) anticipates taking and their anticipated completion date (*see* Rule 26(a)(2)(B) (expert report)); and
- h. list of expert depositions the defendant (or opposing party) anticipates taking and their anticipated completion date (*see* Rule 26(a)(2)(B) (expert report)).

Answer:

- (a) The parties agreed to exchange written discovery which would include interrogatories, requests for production and requests for admission. The parties agree to produce electronically stored data reasonably related to the incident.**
- (b) Plaintiffs anticipate it will send interrogatories to Defendants by August 1, 2021.**
- (c) Each Defendant anticipates it will send interrogatories to Plaintiffs by 60-days from date of Rule 26(f) conference.**
- (d) Plaintiffs anticipate taking the oral depositions of Jessica Mora, and Prystal Milton, Antonio DeLeon, and the corporate representatives of ABM Aviation, Inc., ExpressJet, LLC, United Airlines, Inc., and Simplicity Ground Services, LLC. Plaintiffs may also anticipate taking the depositions of Plaintiffs' medical providers. Plaintiffs expect to complete these depositions by February 1, 2022; (Defendants seek a June 1, 2022 deadline).**
- (e) Defendants anticipate taking the oral depositions of Plaintiffs, Kimberly F. Mills, Individually As Heir at Law and As Independent Administrator of the Estate of Arthur Mills, Deceased, Jeremy M. Mills, Levi C. Mills and April C. Webb. Defendants also anticipate taking the depositions of all witnesses to the accident, the investigating officer, if any, of the incident, Plaintiffs' medical providers and Plaintiffs' retained experts, if any. Defendants expect to complete these depositions by February 1, 2022; (Defendants seek an August 1, 2022 deadline).**
- (f) (i) March 1, 2022; (Defendants seek a September 1, 2022 deadline).**
 - (ii) April 1, 2022; (Defendants seek an October 1, 2022 deadline).**

(g) Plaintiffs anticipate taking the depositions of Defendants' retained experts. Plaintiffs expect to complete these depositions by June 1, 2022; (Defendants seek a November 15, 2022 deadline).

(h) Defendants anticipate taking the depositions of Plaintiffs' retained experts. Defendants expect to complete these depositions by May 1, 2019; (Defendants seek an October 1, 2022 deadline).

11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.

Answer: The parties agree to the proposed discovery plan.

12. Specify the discovery beyond initial disclosures that has been undertaken to date.

Answer: None.

13. State the date the planned discovery can reasonably be completed.

Answer: August 1, 2022; (Defendants seek a December 1, 2022 deadline).

14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.

Answer: The parties do not believe a prompt settlement or resolution can be reached without first conducting written discovery and depositions.

15. Describe what each party has done or agreed to do to bring about a prompt resolution of this dispute.

Answer: The parties have agreed to conduct written discovery and depositions.

16. From the attorneys' discussion with their client(s), state the alternative dispute resolution techniques that are reasonably suitable.

Answer: The parties agree to mediate once discovery is completed.

17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.

Answer: Plaintiffs and Defendants object to a trial before a magistrate judge.

18. State whether a jury demand has been made and if it was made on time.

Answer: A timely jury demand was made.

19. Specify the number of hours it will take to try this case (including jury selection, presentation of evidence, counsel's opening statements and argument, and charging the jury).

Answer: 24 - 32 hours; (Defendants anticipate 56 – 80 hours).

20. List pending motions that could be ruled on at the initial pretrial conference.

Answer: None.

21. List other motions pending.

Answer: Plaintiffs' Motion to Remand.

22. Indicate other matters peculiar to this case, including but not limited to traditional and electronic discovery issues, that deserve the special attention of the court at the conference.

Answer: None.

23. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.

Answer: Plaintiffs filed their respective Disclosure of Interested Parties on April 30, 2021. Defendant ABM Aviation, Inc Jessica Mora, and Prystal Milton, and Antonio DeLeon filed their respective Disclosure of Interested Parties on April 16, 2021. Defendant ExpressJet, LLC filed its respective Disclosure of Interested Parties on April 15, 2021. Defendant United Airlines, Inc. filed its respective Disclosure of Interested Parties on May 12, 2021. Defendant Simplicity Ground Services, LLC filed its respective Disclosure of Interested Parties on May 12, 2021.

24. List the names, bar numbers, addresses, email addresses, and telephone numbers of all counsel.

Answer:

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Counsel for Plaintiff(s) Date

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/s/ Patrick J. Comerford July 14, 2021

Counsel for Defendant(s) Date

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/s/ Jad J. Stepp July 14, 2021

Counsel for Defendant(s) Date

United Airlines, Inc. and Simplicity Ground Services, LLC

/s/ Marc Michael Rose July 14, 2021

Counsel for Defendant(s) Date

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